

Planning Board – Town of Spencer

Minutes



Regular Planning Board Meeting
Tuesday, September 15, 2009 at 7:00 PM
McCourt Social Hall
Memorial Town Hall

The meeting was called to order at 7:00 p.m.

Planning Board Members Present: Chair Fabio Carrera, Shirley Shiver, Paul Sauvageau, and Gary Woodbury (alternate member).

Planning Board Members Absents: Vice Chair Paul Tee and Robert Ceppi.

Staff present: Adam Gaudette, Town Planner.

While awaiting for the arrival of Mr. Patrick Gallant who has requested a public hearing and is the first item on the agenda, the Board decided to conduct other business first.

Other Business:

A. Digitized Data Submittals. A discussion on digitized format was brought up at a previous meeting. Mr. Carrera explained that the previous Town Planner and the Board had agreed to incorporate the cost of digitization data format for ANR and Subdivision plans into the fee structure. The goal was to establish the right procedure for the application submittals. The idea at the time was to give an incentive to the applicants in that the fee would be less if they were to provide digitized versions of plans. However, when the proposed fee structure went to the Board of Selectmen (BoS) the language of the content was implied that if digitized format is not done right then the fee would be more than the standard fee. Thus, the BoS did not approve it.

Mr. Gaudette said the digitized format for ANR and Subdivision plans is one of the requirements as specified in the Spencer Rules and Regulations of the Subdivision Land. It states that when the record plan is endorsed, the digitized version plan shall be submitted to ODIS which can then be provided to the Assessor.

At this time there was a discussion regarding the cost of a digitization format. The Board thought it is essential to have ANR and subdivision plans in digitized versions. Mr. Carrera inquired as to the cost of an ANR plan.

Mr. Gaudette said the survey firm could charge \$3,000 - \$4,000 for a simple ANR plan such as boundary line adjustments. The survey firm will perform survey work of the site and identify any

monuments, research at the Registry of Deeds, draw up a plan, and convert it to digitized format which can be conveniently modified. In most cases, plans require some adjustments after review by the Board. Mr. Gaudette suggested if any plan needs to be modified after the Board reviewed it, then ODIS could hold the mylar and not endorse it until a digitized version of the plan is submitted, also the same with a Subdivision plan.

Mr. Carrera commented that it is not unreasonable to request digitized formats from the applicants. He then asked if any previous approved Subdivision projects has ever submitted digitized formats with the plans since the requirement is instituted in the Regulations. Mr. Gaudette replied there was not any in the past. However, since Mr. Gaudette has become a Town Planner, the Board had approved a definitive subdivision plan for Pine Cliff Condos, and he had included the requirement of digitized format in the condition of an approval.

B. Solar Panel Farm. Mr. Cliff Lenoinen inquired about the possibility of doing a solar panel farm on his property. Mr. Gaudette explained that Mr. Lenoinen, who owns about 88 acres of land on R. Jones Road, was approached by ANSAR to do a photovoltaic solar panel farm on his land. His property is in the Rural Residential zoning district. According to MGL, Chapter 40A, Section 3, states that a solar panel uses are exempt from local zoning use regulations, by-law can't unreasonably regulate the use. The development would be subject to Site Plan Review.

At this point Mr. Gaudette passed out draft site plans to all members. He has a concern on the wetland boundary. The plan displays US Geological Survey of Wetland which is not actual wetlands; this means the wetlands have not been flagged. Also the dark line on the plan (Mr. Gaudette pointed out on the plan) indicates the locations of all the proposed grading and it appears to be in some of the wetlands. The plan does not reflect the real existing conditions of wetlands. This needs to be provided for the Planning Board to properly review the project design.

Mr. Gaudette advised that before they prepare the design, they should file an Abbreviated Notice of Resource Area Delineation (ANRAD) application and get an approval from Conservation Commission (ConCom) for wetland lines. The consultant has to submit the plan showing the flagging of wetlands to ConCom. ConCom would hire a consultant engineer at the applicant's expense to review the flagging. They will most likely need to get a permit from MEPA based on the proposed amount of disturbance.

Mr. Gaudette said he would provide feedback to Mr. Lenoinen and advise him to file an ANRAD application with ConCom first. Once the ANRAD is completed, they then could design a Site Plan and submit it for review and approval.

Approval of Minutes: For September 1, 2009

Ms. Shiver made a motion to approve the minutes for September 1, 2009. Mr. Sauvageau seconded the motion and the vote was 3-0 in favor with Mr. Woodbury abstaining.

New Business:

A. Public Hearing on the Amendment to an Approved Special Permit & Site Plan – Bixby Trail Estates. Mr. Carrera opened the public hearing at 7:40 pm. Mr. Gaudette gave a brief summary stating that the Board granted a Special Permit and Site Plan to Mr. Patrick Gallant for the construction of 42 multi-family units at Bixby Trail Estates, on January 15, 2008. Mr. Gallant is now requesting an extension time for the construction. The extension of timeline could be granted for good cause upon the written request of the applicant according to condition 13 of the decision. Mr. Gaudette said that nothing has been done at all in regards to the construction. He then asked Mr. Gallant to explain the current status and the reason for the request.

Mr. Gallant explained that since the approval he has been working with the Sewer Department to resolve an issue relating to an existing sewer line. Recently he just reached an agreement with the Sewer Department, and is waiting for the finalization of paper work, then he will receive a sewer permit. *Additionally, the economy and the market conditions are other factors for his request.*

Ms. Shiver asked whether the existing sewer line is privately owned, or owned by the Town.

Mr. Gallant said the original owner of the property owned the existing sewer line, and the pipe lines were already tied-in with all units, however the sewer permit has never been issued and the project has stopped. Since that time several abutters have had their sewer lines connected to Bixby Trail Estates' existing sewer line. Mr. Gallant is now a current owner of Bixby Trail Estates. The abutters have neither received sewer permits from the Sewer Department nor easements from Mr. Gallant. The Sewer Department will not issue a permit to him (to allow the existing sewer line be tied-in with the Town sewer line) unless he agrees to maintain the existing sewer line of Bixby Trail Estates. Mr. Gallant thought it is not right to put a burden on him to maintain the sewer line for others that were tied-in with his line. After a long negotiation with the Sewer Department, Mr. Gallant has agreed to repair any damage to the existing sewer line and give an easement to the Town, the Sewer Department then will take over the maintenance part.

Mr. Sauvageau asked Mr. Gallant to give an overview of the project since he was not familiar with the plan. (He came on to the Board after the approval was granted).

Mr. Gallant said the project consisted of 42 dwelling units with two-bedroom and three-bedroom units in 11 buildings, which will be situated right off from Bixby Road and will have a cul-de-sac at the end of the road.

Mr. Gaudette stated the extension could be up for one year if the Board grants the request. The Board agreed that Mr. Gallant has good cause to justify an extension. Mr. Gaudette said this is an amendment to an approved Special Permit and Site Plan, thus the decision must be recorded with the Registry of Deeds. He had prepared the decision which indicated that all conditions of

January 15, 2008 shall remain in effect with the exception of a modification to Condition #13 that changed the construction time line from two years to three years.

At this time Mr. Carrera opened the public hearing to the public for any comments and questions. *There were no abutters present tonight that wished to speak during this hearing.*

Mr. Sauvageau then made a motion to close the public hearing at 8:10 p.m. Ms. Shiver seconded the motion and the vote was 4-0 in favor.

Ms. Shiver made a motion to grant Mr. Gallant, the owner of Bixby Trail Estates, a one year extension to February 19, 2011 (date of plan endorsement) on the Special Permit and Site Plan which was previously approved by the Planning Board on January 15, 2008. Mr. Woodbury seconded the motion and the vote **was 4-0 in favor.**

Old Business:

A. Candlewood Phase I – issue with the Standring Family. Mr. Gaudette was recently contacted by the Standrings. *They asked if the Board could issue a letter stating that the Board would not do anything with the dispute between Mr. Brian Murkland - owner of Candlewood Estates, and them - the Standrings.* Mr. Gaudette told them he would bring up the subject to the Board at tonight's meeting, but to not expect anything.

Mr. Gaudette gave a summary of the history of the dispute to the Board. The Standrings believed the excess water-runoff from the Candlewood development had contributed to the water problem they had already been experiencing. The permanent solution which the Town Officials (U&F, Highway Department, ConCom and Peer Engineer) and Mr. Murkland (the owner of Murkland Construction) agreed upon on was to install a pipe across the road to the Sibley property. ConCom approved the design of pipe across road to the Sibley property in August, 2007. The Standrings appealed ConCom's decision to the DEP, immediately right after. ConCom issued a Certificate of Compliance for the project in November, 2008. The DEP has not responded/commented back to the Standrings since.

At the meeting of April, 2009, the Standrings came to the Board to seek advice in resolving their on-going issue with Mr. Murkland. The Board directed Mr. Gaudette to contact Mr. Robert McNeil (U&F) and Mr. Murkland. Mr. Gaudette said Mr. McNeil responded that the Town has no obligation to do anything. Mr. Murkland responded that he did put effort in accommodating the Standrings, and since they appealed he then had no obligation for anything.

Mr. Gaudette let the Standrings know of the outcome. At that time, they had asked a letter from the Board. Mr. Gaudette gave the minutes of the meetings to them instead. They have now requested a letter from the Board again.

Mr. Gaudette informed the Board that Mr. Murkland will request an extension of time to complete the construction on Candlewood Phase I. It requires a public hearing to be held by The Planning Board. The Standrings may attend and question the Board about the letter. The Board

said that they would not issue a letter and if the Standrings wish to attend that public hearing; they are welcome to do so.

Other Discussion: None

At this time Ms. Shiver made a motion to adjourn the meeting at 8:30 p.m. Mr. Woodbury seconded the motion and the vote was 4-0 in favor.

Submitted By:

Approved By:

Bea Meechan, Senior Clerk
ODIS

Fabio Carrera
Planning Board Chairman